

PROBLEMS OF THE WELFARE STATE IN GREAT BRITAIN

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by

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PROBLEMS OF THE WELFARE STATE IN GREAT BRITAIN

FIRST LECTURE

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Rights of the Individual Citizens

Chairman (Shri A. D. Pandit) : We have amongst us tonight Mr. Henry Maddick, Lecturer in Public Administration and Politics at the University of Birmingham. Mr. Maddick has wide experience of economics and other social sciences. He has had contacts with various universities including Oxford and he has also had considerable experience on the commercial side and practical economics. We are very fortunate in having him with us tonight and the subject of his talk is the welfare State. We hear so much about the welfare State but everyone has his own ideas about what the welfare State consists of. I hope with Mr. Maddick's talk tonight we shall have our ideas clarified. Most of us who are here are interested in administration in some way or the other. Many of us here are practical administrators. There are others who are students of public administration and I hope Mr. Maddick will tell us particularly how the administrative set-up should be reorganised or should be conditioned to the requirements of the welfare State. I shall not now stand between you and Mr. Maddick much longer and will call upon him to tell us about the welfare State.

Mr. Maddick : Before I start my talk, Mr. Chairman and gentlemen, I might express my appreciation of being able to address an audience like this. You know the description of Oxford as being the ivory tower. In Birmingham, you know, that ivory tower becomes a little dusty and is rather more mixed up with the processes of life but with all that, those of us who are trying to teach have been given rather rarely an opportunity of meeting an audience such as you provide tonight. It gives us a chance of getting down from the clouds and putting our feet firmly on the ground and I think that is a most important part of experience for any teacher in the university and even more particularly for those of us who try to study the administrative processes.

The Chairman has referred to me in very eulogistic terms as though I might in fact be writing you a preface to my



epoch-making work on the way in which a welfare State should be run. That, Sir, I am afraid, is rather a tall order within the 50 minutes that are allowed for the purpose. But I would like to take tonight, as my subject, the problem which the welfare State poses and confronts, for the democratic control and for the administration of all those services which we sum up in the term "the democratic welfare State". In that context, I propose to use the term "welfare State" as embracing all those services which provide something for the consumer and those services which are provided to control the activities of the producer or the consumer in any particular way. The term welfare State can only be defined in the context of the country to which it is applied. I shall endeavour, in that definition, to make it as wide as I possibly can: first, the provision of services, second, the maintenance of control and perhaps thirdly there may be an object such as the securing obviously of a greater equalisation of opportunity for various members of the community, in fact for all sections and classes in that community. Having said that, I would ask you to accept that in the broadest possible sense because the problem to which I want to direct your attention tonight as administrators is the problem which is facing us in Britain regarding the methods of control of the administration which we have to build up in order to work this thing we call the welfare State.

Traditionally, the processes of control over the administration in my country are first through Parliament, through the question to the Member of Parliament and from the Member of Parliament to the Minister responsible for the department, and secondly through the law courts where the citizen can claim that his individual rights of either liberty or of property, using property in the widest sense, have been infringed by an individual action of the Government or of a servant of the Government acting in its name.

In this connection it is clear that we have to do a great deal of re-thinking. We have not got the protection that we thought we had. We have not got the protection that we had say in the 19th century when the activities of the State were primarily concerned with the maintenance of law and order and the protection of the realm.

In this connection may I quote one case very briefly to you, the ripples of which will have undoubtedly reached some of you in this country. It is the case known in England as Crichton Down in which a parcel of land had been forcibly, compulsorily acquired in 1937 or soon after for a bombing range, and at the end of its.

period of usefulness was not returned to the owner by the Air Ministry, but in accordance with the policy of the then Labour Government was passed over to the Ministry of Agriculture for disposal as they saw fit. I am not going to bother you with what I regard to be the unnecessary details of the administration of lands by the Ministry of Agriculture nor of the machinery which is set up for the retention of lands by the Crown Commissioners. At least three separate agencies of Government were involved. In the first place, there was the Air Ministry. In the second place, there was the Ministry of Agriculture—the Ministry and its agents the Commissioners for lands who administer any land which might be vested in the Ministry under the 1947 Act; and in the third place, there was that body which administers what are known as Crown lands. That would be a perfect setting for administrative difficulty—three main agencies and one separate and subordinate agency involved.

In 1950 the fate of this land was still uncertain when a proposal was made by the Ministry of Agriculture that this should be developed as a model farm equipped with buildings and capital machinery and then leased out to a tenant to aid food production. Concurrently, the former owner applied for permission to buy that land and to farm it under the various State aid provisions along with the neighbouring land that he owned through his wife. To cut a very long story short, there was an infinite number of passages of files and letters and of individuals to inspect the land—those who came fully informed and those who did not. Various statements were made and this in turn led to complaints to the Minister who, when he came to examine the facts, did not see any contradiction between the different statements that were made by the owner, Commander Marten, and by his advisers, and he proceeded to implement the policy of re-stocking and re-equipping this land and of farming it directly by a tenant of Crown lands rather than selling the land to the owner. Mark you, at that time you had a change of Government and here was a conservative Minister operating this system. This led to a minor explosion in the House of Commons, to the Minister appointing a Barrister to investigate the circumstances. He presented his report after holding an enquiry on the spot, questioning various members of the Civil Service and the agencies involved and of course, questioning the former owner, and in it he condemned the Civil Service for what had not been done, for the bungling, for the way in which they had ignored what he held to be the rights of the former owner, Commander Marten, and for certain actions which the Civil Service had taken in the course of their negotiations. He said that there was an element of personal vindictiveness shown in the dealings of the Civil Service with this individual, and he instanced the fact that in the

course of the enquiries they had referred to Commander Marten as being a difficult and obstinate individual. They had started a separate enquiry to find out how it was that Commander Marten had been able to build three cottages in 1950 at a time when new buildings were subject to Government control and special licensing. In fact, the licences had been properly applied for and properly granted.

But the investigator said: What was the purpose of this, if it was not a vindictive approach to the individual who was trying to arrest the government machine in its demands for the ground which he formerly owned? The upshot of this was that there was a full-dress debate in the House of Commons, one in which no words were minced by the Opposition; and the Minister of Agriculture, on concluding his statement on what had been done said: "I now resign."

Gentlemen, that, I submit to you, was a very proper thing for him to do. But let us look at this case not as to the individual set of circumstances, not as to the details of the case, but as to the position of the individual in contact with the machinery of government. Commander Marten and his wife had every possible facility that circumstances could offer to an individual in such conditions. He had been Naval A.D.C. to the King. His wife was related to the Minister of War, and she had, I think, one from the royal family, as a god-parent. There was plenty of money. There was plenty of backing from those in the same class in the county in which he resided. And there was education. In fact, everything was weighted in his favour, as far as the making of that complaint was concerned. There was no ill intention in a member of the public trying to arrest the process of the government machine. Whether that process was right or wrong is a matter of policy. But undoubtedly the way in which it was carried out was entirely wrong.

I stress that point because traditionally he should have been able to appeal to the courts, or he should have been able to go to his Member of Parliament. As it was, he fought. And you cannot describe it in any other way. He fought the battle, which lasted for two and a quarter years. He wrote many letters. He developed a campaign, which he ran in a way which would be the envy of many publicity firms and he eventually attained his point. From that point of view, the outcome was satisfactory. But what would have been the case, if the circumstances of this individual and his wife had been different? Could he have ever appealed to the courts? Could he have gone to them and said: "I am being deprived of my land, I have no safeguard other than

coming to you and asking you whether this is a proper thing to be done, I ask you to redress this act of the administration" ? The answer is quite simple. He could not do so. The action of the department was entirely within the four corners of the Agriculture Act of 1947. It did not say that the Minister should not farm that land. In fact, the Minister thought it desirable that he could continue to farm that land which might be passed on to him by the other departments because they no longer required them. And therefore, the Minister would only have had to show whether his action was within the four corners of this Act. No discussion could have taken place within the court.

And what was the redress which was eventually pressed home ? It was that of appealing to the member, and through the member to the Minister for, first of all, the unfairness of his policy, and secondly, from a broader point of view, the inadequacy of his department.

We have carried out a certain amount of research into this, and to my surprise, I find that there are only four cases in the last one hundred years of a Minister resigning on account of the actions of his subordinates within the department. That, gentlemen, is a very small number indeed in one hundred years.

Now, therefore, we have facing us a real problem. If the individual in our community wishes to appeal against the activity of the civil servant—and by that I really mean the whole administration—then, what is to be his mode of redress to make that appeal effective, not necessarily to get his own way ?

Our problem, as I see it, is to consider the implications of this in relation to all the other services which I had summed up in those three criteria with which I started my definition of the welfare State. And those services are manifold, because the government or the local authorities are concerned with education, with housing, with health, with town and country planning and the acquiring of land, with permission for capital development, with national insurance, with public assistance, with pensions, with provision for the aged, and the regulations that go along with it, with the care of the deprived children and the regulations that go along with it, and a hundred and one other things, not the least important of which is the requirement of compulsory national service, and the measures proposed for the exemption of certain classes.

In all these things, our rights are touched most intimately, and at very many points, by the activities of the administrator. It is clear that we have no proper means of redressing or even

of having examined the cases where the individual feels that his rights have been ignored. I would not like therefrom to draw the conclusion that the administrators in Britain are riding roughshod over the rights of the individual as a matter of policy. That will not be true; in fact, it will be far from the truth.

But I am not concerned with the thousands of cases that go right. I am concerned with the cases which may very well have gone wrong, either because of bad judgment by an individual or because of mistakes in administration and I am sure that you would all be prepared to admit that mistakes can occur in large organisations—or because an individual is pursuing a policy fanatically, as was the accusation made against some of the persons in the Crichton Down case, to the exclusion of any consideration of the rights of the individual.

I am not satisfied that our present system provides adequate satisfaction, and I suspect that this problem is there in other States also. In fact, I know this problem applies in many other States, where a welfare State and a wide civil service administration are applied to the community at large. I consider that in England we are faced with a radical reorganisation of the whole machinery of what is now called administrative justice. There should be some method of control over the activities of the administration and over the decisions of those tribunals which the Minister has to set up, in many cases, to hear appeals under certain semi-judicial actions. I confess that I am a little at a loss here to know how far I could use such a phrase as semi-judicial action. I can give one example, that of acquiring land under the Town and Country Planning Acts for public development, for development of roads or for use as a site for building offices or other public requirements. The law has it that the Minister must hold an enquiry. The enquiry is conducted by an Inspector of his department who hears arguments for and against and then presents his report to the Minister. The Minister takes a decision—that is the expression though it is one of his officers that takes the decision—as to the way in which this shall be dealt with, whether the land shall be taken or shall not be taken, or whether it should be restrictively used or should not be restrictively used. There is no appeal from the decision so taken. You cannot go to courts. So, it would seem that two problems come together. We lose the protection of the court in the first case, because of the multiplicity of actions and, in the second case, it is impossible for every action to be taken up to Parliament even if the individual concerned was always literate enough and strong-willed enough to pursue his case through his Member.

As I have stated already there is the problem of the Administrative Tribunal against the decisions of which there is no appeal to courts and it becomes the final body having jurisdiction. I would feel very much happier if the members of the legal profession in our country were prepared to look across the channel and to look to France and see the way in which they handle this problem of administrative law and administrative action. There, you have the *Conseil d'Etat* before which all administrative actions can be reviewed and to which an appeal can be made from almost all Administrative Tribunals. All our lawyers are suffering—and I think I may say so rightly—under the influence of Dicey who died years ago and are still talking about the need for the unity of the legal system. 'We cannot possibly think', they say 'of a system of administrative law using a different channel of legal redress from that of any other courts'. Of course, they shut their eyes to the fact that because they have said that, there is no redress at all whatsoever to evil effects of certain types of actions. It is not a case of having two systems; it is a case of having 3 or 4 component parts. That they do not like. But, if such a body as they have in France could be instituted in our country, we could have a means through which actions of the Administration could be surveyed and surveyed in proper circumstances. The case of Crichton Down has shown the need for this in proper circumstances.

It is entirely wrong that in every action of Government the names of individual administrators should be bandied about in the public press. It is entirely wrong that individuals should be cited for their activities, for activities for which they are servants of the Minister. It is the Minister who should take the full responsibility for what has been done by his department.

In the hearing in the French *Conseil d'Etat* such publicity is not given to the individual. All documents are produced and only principles brought into consideration by the court. What they are interested in is not what the statement of A or B is but what has been done in this particular case. Here is a government policy. On the one side it has to be implemented; and, on the other side, there is an individual citizen who has to be worked into the special policy and has to be treated with consideration. And, if he has suffered, he should be compensated for such suffering. They examine each administrative act and they take a decision as to whether it is proper or not. If they find that it is improper, they may either order damages or order the status quo be restored and another solution found. They are not members of a court; they are administrators trained both in law and administration. They are an ideal

combination, in fact, to consider such situations and they come out of practical administration and return to it for further action.

I would like to make just a few more points about this problem which Crichton Down has brought to our notice. The blaming of the Civil Servant is entirely wrong. I do not see now any service can efficiently conduct its operations if every time a senior Civil Servant—or any Civil Servant—thought, when he writes a memo in a file, that it is going to be looked into by somebody else in the light of—shall we say a very cold scrutiny in the blaze of—publicity, that the words would be taken out of the context and the situation to which they applied and would be used to find out what was really in the mind of the man who wrote that. There may be documents on international affairs and foreign policy. That goes against noting anything at all on the file for fear that somebody else later on—some busybody like myself—would say that so and so wrote such and such a thing on such and such an occasion. It is entirely wrong and I am very much upset at the way in which this Crichton Down has caused the criticism of individual Civil Servants—for that matter, of Civil Servants as a whole. I may quote one sentence from one Member of Parliament on this very thing. He says: 'It has done great damage'—the Report has done great damage—'because of the sustained onslaught which has been released upon the public service, whose servants have been castigated in all the journals of middle-class and upper-class opinion as incomparable tyrants, secretive conspirators, and discourteous non-entities, contemptuous alike of the rights of individuals and of the real public interest. I believe that great damage has been created by the resulting ill-odour which has been spread upon every organ of public control, especially in relation to land.'

It is quite clear that in these circumstances certain points occur. The first is that we have to overhaul our ideas of whether we have adequate protection for the individual when we commit his affairs to the administration which has to apply a policy upon such a broad basis involving so many millions of individuals. Secondly, we have to ask whether any enquiry should ever cite individual civil servants and whether an enquiry into the administration should be held in public. There is or there has been in the past a very clear statement as to where the responsibility lies if the administration is at fault. That made for retirement or resignation by an individual in 1917, Sir Austin Chamberlain, at a time when he was connected with Indian Administration in London and because of that he had to take responsibility for an operation which was carried out by the High Command operating here in the Mesopotamian campaign and for the attack on Baghdad when we were fighting the German forces and the

Turkish forces in the Turkish Empire. What was said at that time was very significant. "The Committee of Enquiry was asked to attach responsibility to departments of Government, but what the Committee did was to attach responsibility not to the departments of Government, but to individuals. The House and the country are sapping in that way the whole service of co-operative effort and departmental responsibility in this country. Men are asking for instructions in writing; men are safeguarding themselves by letters and by minutes; men dare not give advice because they are afraid of the Commission sitting upon their actions. Under the old system, the Parliamentary Chief of the Department was responsible for what occurred and under his rule he clothed with his authority all those who worked for him." Now I would suggest to you that Crichton Down in that sense has been a step in the wrong direction and that we must return to the anonymity of the civil servant and the final responsibility of the Minister. As I said before, if something has gone wrong somewhere, then it is for the Minister to apportion the blame.

The final point which I would like to make is this. Have we faced the problem of how the ordinary member of the public is going to adjust himself and is going to manipulate the machinery which we establish in his name? How is the ordinary individual going to know what his rights are, how he is to exercise them, what forms he has to fill in? It has opened a wide field to the professional letter writer even in my own country, the man who knows where to go, how to do it, what to say and possibly also who to say to. But, gentlemen, seriously this is presenting us with a very real problem. Those who are attacked, I am aware, are more than conscious of their responsibility to the individual citizens in whose mass name they are administering these services. They are constantly thinking of the relationship between the individual and the department. Normally, the individual member of the public is only dealing with those individuals who are lower down in the rung. We had sitting about four years ago an interesting committee and it had to enquire into certain activities in Government, some of which were wrong, I am afraid—by certain activities of individuals. This was known as the Committee on Intermediaries and they had two things to say. First, without some form of intermediary activity, they did not think that the ordinary individual could understand or have an assurance of manipulating the machinery which is set up for his benefit—I am using the word "manipulate" in the best possible sense; you might call it "the administrative know-how" to borrow the scientific term. Secondly, an ideal system would be one in which applicants both were, and felt themselves to be, free to approach directly the officers dealing

with their cases, and were fully aware of the best way of putting their cases. Under such a system there would be no need for any intermediary. Such an ideal is not fully realisable in practice, but we believe that more could be done to approach it. There should, in our opinion, be adequate machinery in each Department for considering whether any particular control is necessary for carrying out Government policy for the time being in force. Not all Departments make a sufficient effort to look at their system through the eyes of those outside the Government service who come into contact with it."

Crichel Down is an obvious point, and I would like to conclude by quoting to you from an instruction circulated by the Permanent Head of the Civil Service. He is writing of course on behalf of Their Lordships of the Treasury.

"The circumstances that led up to this report (of Crichel Down) have brought forcibly to their Lordships' attention, as to that of the country as a whole, the need for constant vigilance to ensure respect for the rights and feelings of individual members of the community who may be affected by the work of Departments. The confidence of the public in the administration of Government Departments depends upon this vigilance."

Here then is a second redress. If we have not got appeals to the courts and if your appeal through the House of Commons comes up against the majority party with the same point of view, then, where does your redress lie? It must lie first at least in our system at the present time, in the attitude of the people who are administering the services. It is a most difficult thing to ask that they should force themselves into more trouble by trying to treat every case as though they were acting for the individual against the department. It is an extremely difficult attitude to take. But the situation is such that I am convinced that the ordinary individual in our country depends upon the advice he receives from the civil servant before he knows what are his rights *vis a vis* the individual civil servant to whom he goes for advice. I would like, as far as possible, to see that that is supplemented by some approach, in British Government, to the machinery operated by the *Conseil d'Etat* in France, because that seems to me to provide the only independent outlook.

QUESTIONS

Ques. *Would you think of abolishing zamindaris in terms of individual rights? We have stressed the protection of the individual properties in this set-up of welfare State. But here, individual interests have to be subordinated to the general interests; for instance, where the size of the holdings somewhere is much too large and the State takes the view that a curtailment of that would be in the larger interests of agriculture and of the community as a whole, the State acquires that land with or without adequate compensation for the purpose of cultivation, and allots those pieces of land to other agriculturists. What would you think of any action like that?*

Ans. Mr. Chairman and gentlemen, I do not think, having arrived in this country three days ago, I shall be asked to involve myself in a discussion of certain circumstances which I do not fully understand, let alone fully know the surroundings. I hope you will appreciate that. I shall be delighted to answer questions about Britain. But it would be presumptuous to answer questions about your country on the basis of three days' acquaintance.

Ques. *Taking it back to the economic evolution of English life, there was a stage here where either much too large holdings or small holdings were taken over, and through a process of rationalisation of holdings, some pieces were acquired in order to make them into sizeable areas so as to maximise agricultural production. Of course, England has advanced very much economically beyond that stage, but suppose, we were thinking of that stage which corresponds to the present stage of India, what are the bases of thinking in terms of individual liberties and the liberties of the community?*

Ans. The balance of individual and community interests must be decided by the community which we are to operate and cater for. It is quite impossible to give out a general solution. If you read "On Liberty" by John Stuart Mill, you will find that he says that you should give to the individual the things that the individual requires for the development of himself, and that the State must be given what it requires for its own development. That is a political decision which I am not prepared to treat as an administrative subject.

Ques. *How far is the popular press in Britain a protection against acts such as Crichton Down?*

Ans. I think that the popular press provides a very useful vehicle, but like the popular press in most parts of the world, they tend to weaken their position by using every case that occurs to weight a stick with which they are beating a person. It is true, however, that the press do take up questions like that of

Crichel Down, and the pressure of opinion expressed in that way did force the Minister to do something about it. Of course the Minister had to prove that there has to be intervention, and having proved, he goes, but he did not realise that he was responsible for the inefficiency of his department. Here, may I give you one example? In 1935, the resignation of a Foreign Minister was forced upon, over a proposed arrangement between France and Britain regarding Abyssinia. That was predominantly due to the pressure of public opinion and it was primarily through the press. I think if you can show that there has been a genuine case of injustice, then the press will probably take it up and they have something to do rather more to the taste of their audience. The interests of the State have to be determined on the necessity and a chain or series of decisions administratively.

Ques. It has been said by some economist, by Mr. Cole perhaps, that the progress of the welfare State means the retreat of socialism. In the Crichel Down case, for example, would it be that privilege has won over the socialistic idea of acquiring of private property and putting it in control of Government?

Ans. I would not wish to go as far as that. I think what happened over Crichel Down, as I have already mentioned was, that the Minister was at the head of a department which was putting into practice the activities that were smiled upon by his socialist predecessor, namely the development of State-owning of land where land fell into their hands you might say, because it was already being used by other departments and had no immediate private owner. The previous owner had been bought out, compensated and had no interest. What Crichel Down did was to show up that the Minister had not taken a grip over those things that he should have taken. That is the Minister's responsibility and not the administrators' responsibility. The Minister was going on a particular line while they were going on another line and he never switched the point. He never said to his department: "We are going to drop this policy because it is not in accordance with conservative ideas." What I think has been the result of this is that the Conservative Government have applied quite naturally enough the conservative policies and were slowing up the activities of the Labour Government, but I would not go so far as to say that this case is a reversal for the services, or the conglomeration, of what we call the welfare State. The phrase sticks in my mind that we are all socialists now for the very good reason that no party can afford not to be socialists if it depends upon the popular vote, and so, to come back to the tradition of conservative averages, I think we are going the same way if not so fast.

Ques. The welfare State impinges over a very large field. The administration of the welfare State has to deal with, come

into contact with, interfere with, do things or prohibit the doing of things by citizens, and in such a case my impression was that there were local appeal committees or something like that where cases of injustice or oppression could be looked into by the local people, possibly representatives of some sorts of interests and so forth being appointed. To what extent is this impression correct, and does this not to a very large extent give you the defence that you have been talking about ?

Ans. This is a very large question. There are, I think, two broad types of appeal that you have in mind which are related to the way in which the services are administered.

In the *first* place there are a certain block of services which are administered through local authorities, and those authorities are themselves elected by the people living in that locality—such things as housing, education, and to some extent, town and country planning, many of the services regarding old people and children and so on. In that case, there is a medium of appeal through the elected representative and he in turn takes it up with his administrator. But you have, of course, there got the same problem in miniature. It is, however, I think a better solution to the problem in our country because it is not so likely to get submerged in a mass of problems as would be the case if it is all dealt with by one department in London. Whether the individual succeeds in this is obviously a political decision.

Secondly, there are local appeal bodies for various types of Government departments administering the services. Suppose you go to the State and say : "I cannot keep myself and my family in decent circumstances, I want public assistance", the officer responsible gives relief in terms of a standard scale, but as you know a standard scale must be subject to a great number of individual exceptions. You cannot produce a standard scale to cover every conceivable case that arises. And disputes arise between the individual and the inspector. There is an appeal tribunal which consists of three members one of whom is professional and the other two are lay, and the individual has to state his case before that tribunal and against the inspector concerned. We have a large number of tribunals of that nature covering a wide variety of fields. I do not want to give you the details, just one instance I would like to quote. That concerns doctors and medical practitioners who in some cases have been held to be no longer desirable or proper persons to operate the National Medical Service. They appeal to what is known as the Disciplinary Tribunal set up by the National Health Act of 1947, and if they dispute the findings of that tribunal, then they can appeal to the Minister, but not to the courts.

I know that you will say there is some form of getting other people to consider it, but the real difficulty is this. If everybody is involved in pushing one particular way, are they not going to feel that in fact the policy decided upon is correct and do they not tend to feel irritated, as some of these individuals connected with Crichel Down felt irritated when their actions and activities are questioned? That is why I want to see some form of appeal to a body like the *Conseil d'Etat* in France. I think as Crichel Down points out, a department or a section of a department connected with a particular decision gets wrapped up in its own solution. There is nothing wrong in that. That is what we all do, but it is useful to have an independent body to whom to take this. I am grateful to you for putting this point to me because it changes slightly the picture that I have painted for you, but I would like to say that in what I have said in my talk tonight I am concerned with a case where the individual feels aggrieved and does not know where to go or how to do something about it. Even if you have had your case heard by an inspector you still feel he is an inspector of the Ministry of Local Self-Government and Planning and that the decision is made by another member of the same Ministry and your appeal is to the Minister of Planning—people who are after all wrapped up in one idea. I think perhaps I better stop there because otherwise we would be involved in a great deal of administrative detail, but it is important to remember that in Britain some of the welfare services or social services are administered through their local bodies. And those bodies, because they are nearer to the individual, are less susceptible to the kind of accusation that has been levelled by Sir Andrew Clarke in Crichel Down, and are less likely to fall into the difficulties which the Committee of Intermediaries so neatly underlined in its report.

Ques. *What is your attitude towards simply noting in the files 'Discussed with.....'? I think this is a habit which we have acquired from the British secretariat, because most of our administrative habits are of the British pattern.*

What happens sometimes is that in the office files, a noting is made saying 'Discussed with.....', and then the decision taken is given, without indicating any details of that discussion which led to that decision. This particular way of recording things not only robs the records of the grounds for that decision but also enables an officer to pass on to or at least share the responsibility with the higher officer. And anyone reading the files cannot find out the actual grounds for such a decision, and he cannot know whether it was a departure from a policy laid down or what was given was only an ad hoc decision.

Phrases like this are also used in the British secretariat. What are your reactions to this particular administrative habit which has existed and which continues to exist in the British secretariat ?

Ans. First of all, it would be a most extraordinary thing if a reversal of policy is not fully documented by a British civil servant. He would have to have some authority from his Minister for a reversal in policy. If he makes an ad hoc decision, it is after endless consultation, and it is known; and some of it certainly should have found its way into the minutes on the file. On the other hand,—and that is my point of view—the noting has got to stop somewhere, not because you do not want to put down something which you might think would be embarrassing—for the files receive the light of day after forty years or so only, and in fact the complaint that we have got is that we could never find out what goes on—but because of the sheer bulk of the file, the volume.

May I remind you how the minute was recorded by one weary individual, somewhere about 1946, when he found that the volume of the files was becoming heavier and heavier ? He put down this remark : ‘Seen, but not read.’

Ques. *I would like to end on that happy note. But there is one question which I am sure most of us here are concerned about. I have no doubt that we would all entirely agree with Professor Maddick on this question of the anonymity of the civil servant, that it would be very wrong if the name of the individual persons is bandied about in a situation in which they cannot defend themselves. Even if they could defend themselves, it is not always possible for them to explain all that went on behind the scenes because of political and other repercussions.*

We all agree with Prof. Maddick I am sure, on this point. In fact, this is one of the lessons of Crichton Down.

But I want information on one particular point. In the inquiries—I am using the term in its etymological sense—of the Public Accounts Committee, are the names of the individual officers brought forth ? If they are brought forth, should the records of the Public Accounts Committee be treated as public property or should they be treated as confidential ?

Ans. The Public Accounts Committee, and I think I ought to add, the Estimates Committee, publish the evidence given before them. The people who give the evidence are named, and those individuals are invariably the top men in a department.

They take the responsibility for the whole administration, irrespective of who made a particular decision or who did not. And when it comes to a question of policy, you find them backing their way out saying: "Mr. Chairman, with respect, I would like to say this is a matter of policy, and it is therefore a matter for the Minister."

Now, what happens if we view this question in the context of what we have been saying about anonymity? The anonymity of the individual civil servant is concealed in terms of the department which has done this or the department which has done that. If the individual is asked to give an individual opinion, then he states it as an individual opinion, and of course, invariably, avoids any discussion of policy.

Once an individual witness is named, there is no question of his allocating blame to a person—and I must confess that I cannot think of any occasion when I have read of an individual personally accepting blame or personally laying a charge against anybody else, and I would prefer to be corrected on that, because the volumes are very considerable, and they come out with very great frequency, and as I said just now, there is a limit to what one can read. But I do not think that that is ever being done. I think that the whole atmosphere of the Public Accounts Committee and the Estimates Committee is one of sympathy in finding out why something has gone wrong. It is that of a pained and sympathetic conference in which those who inquire as to why this was done or why money has been spent in this way, do not attempt to put the blame on any individual, but merely ask that the system should be looked into.

For instance, I might give you a very small example. Two reports of the Committee on Public Accounts were concerned with handling of stores in the Air Force. And they found that on one occasion, the reference number of a particular item which went into six figures, had been put down as the quantity on hand, that on another occasion, two packing cases containing engines worth somewhere about £1500 had been sent away as empty, and that on a third occasion, what had cost the Ministry some thousands of pounds had been sold for £45 as scrap. You may say that that is a shockingly-run department. But I think you have got to remember that much of the stores work is done by national service people who are new to the job all the time; and the problem of training them and getting them interested in the work is becoming extremely difficult. So, mistakes occur.

But there was no attempt on the part of that Committee to try to find out which individual had done this thing. They

were satisfied to point out that these things were going on, and posited the question to the Minister and to his permanent secretariat : "Is this being done properly ? Are you satisfied that the country is getting 20 shillings worth of value for every pound that it spends on its affairs ?" And I think that that is the Committee's function, and not, as it is possibly thought, to administer kicks or to hand out bouquets. It is there to investigate methods and not men.

Ques. *If any member of the Public Accounts Committee wants to know the name of a particular individual who was guilty of an act, can the head of the department giving evidence before the Public Accounts Committee say that they are not concerned with individuals but only with the system ?*

Ans. This is very difficult. I remember occasions when such questions were put but, I think, afterwards they were expunged from the record. You must remember that the Chairman of the Public Accounts Committee and the Chairman of the Estimates Committee are always from the Opposition. Generally, it would be one of the junior Ministers of the Treasury in the Opposition Government who would be nominated for such a position. He would, under no circumstances, permit that sort of question to be put. It is not that it would be ruled out but I do not think any member would, in fact, put that question because the traditions of the Civil Service are so well-established in the eyes of Parliament.

* * * * *

Director (Shri S. B. Bapat) : I am quite sure you will all join with me in heartily thanking Mr. Maddick for what has been to us all—to me most certainly—a remarkable experience. I say with great deliberation because I confess I was afraid that, when we came here to hear a talk on welfare State, there was just a possibility that we might hear a great deal about a switch over from the old static to a dynamic State and the State's responsibility towards the citizen, what he should have and so on and so forth. As an academic student and teacher of public administration addressing an audience which is also composed almost entirely of administrators, I think, Mr. Maddick took the right line in pin-pointing those particular aspects with which the administrator is concerned and where he may go wrong and where a citizen may be left without redress. I think the only real and ultimate solution is—as he himself indicated—that the administrator must be the guardian and counsellor for the citizen with whom he is dealing in every case. I think that is the real essence of the welfare State.

Tomorrow we look forward to a possibly even more interesting session because we go from something which is general to something which is very particular and more interesting to us here. Tomorrow, instead of a talk we are having a discussion on the subject of 'Nationalised Industries'. I have already received a number of questions which indicate the aspects in which members of our Institute and others are interested. I have passed them on to Mr. Maddick and will pass also others that come to me. The idea is that when we all meet here we should begin straightaway with the list of questions already received. I would suggest starting with the list that I have already given him—to take them in whatever order he thinks best.

SECOND LECTURE

(January 10, 1956)

Problems of Nationalised Industries

(Summary of Discussions)

The second talk was in the form of questions and answers which are reproduced below. *Shri G.L. Bansal* presided.

Ques. *What should be the nature and extent of parliamentary control over nationalised industries which would ensure that these industries are run in the public interest and on sound and economic lines and which would at the same time give them necessary operational and financial flexibility ?*

Parliamentary control over nationalised industries was generally exercised through the annual debates on the reports and accounts of those industries. The responsibility of the Minister to Parliament was in regard only to those questions which related to the instructions and directives issued by him to the boards of management. However, there was a tendency on the part of the Minister not to put down in writing his views and instructions in the matter, but to exercise power and influence informally. The Minister thus could avoid open responsibility and that greatly limited the extent of parliamentary control over nationalised industries. Mr. Maddick felt that the exercise of power by the Minister over the industry should be apparent, *i.e.* all instructions and orders by the Minister should be reduced to writing.

In the last analysis, the parliamentary control over nationalised industries lay in the political, democratic process. If the Parliament were seriously disturbed about the affairs of a joint stock company protected from the ordinary process of parliamentary questions, the opinion of the public and of the members of Parliament would ultimately be strong enough to force Government to adopt some method of explanation or investigation. Ultimately, a question like that should be treated politically rather than as a case of public administration or of methods of organisation.

It was difficult to draw a hard and fast line between matters of policy and day-to-day management. Nevertheless, the

Minister could still lay down policies in broad terms and leave it to the boards of management to carry it out.

For smooth and prompt functioning of the process of decision-making so vital to the operation of any industrial or commercial undertaking, it was necessary that the nationalised industries should enjoy operational and financial flexibility. In other words, the boards managing the industries should be allowed maximum freedom from interference by Parliament in day-to-day management, in administrative organisation and in the actual administration of the industry.

However, their operation on sound and economic lines need not always coincide with public interest. For instance, in the transport industry in England, the price charged for travel on branch lines was far below the actual cost of providing that service.

Ques. What is the best form of organisation of managing public enterprises—departmental management, public corporation or joint stock company, etc. ? Is the public corporation the best instrument for balancing freedom in day-to-day management with parliamentary control ?

The best form of organisation for managing a public enterprise depends upon the nature and size of the enterprise, the market for its products, the type of consumers, the degree of parliamentary interest in the field, etc.

Departmental Management was more suited to operations of a repetitive character, such as handling of mails. It was also appropriate for activities requiring accountability for every action or decision. On the other hand, it was obviously undesirable to run purely commercial or industrial enterprises on civil service lines. They could be better managed through the medium of a corporation or a joint stock company.

As to the public corporation, it was the best instrument in its own particular sphere : it provided a balance of parliamentary control with operational freedom. The joint stock company where government had major shares, was not much in use in England. There were only two typical instances—the Suez Canal Company and the Anglo Persian Oil Company. While at one end, under Departmental Management, every action was liable to parliamentary questions and investigation, at the other end—in the joint stock company—every action and decision was probably incapable of being questioned through the various parliamentary processes. The joint stock company had, in the

U.K., not proved a fruitful line of a development for public control.

Ques. (a) *It appears that British Parliament has not found it necessary to get public enterprises audited by the Comptroller and Auditor General. If so, is it not regarded as constitutionally improper ?*

(b) *Does the Public Accounts Committee in the U.K. deal with the public enterprises in a manner which does not discourage initiative in the public sector ?*

(c) *Is there any representative of the Treasury on the management of public corporations ?*

(a) All the published accounts of nationalised industries were open to scrutiny and to enquiry by the Board of Management concerned and the Public Accounts Committee and to the scrutiny also of the Comptroller and Auditor General.

If owing to continued losses the Treasury, as guarantors, was called on to pay the interest on the capital of a Public Corporation, then clearly the Comptroller and Auditor General would be entitled to probe behind the published figures. The B.B.C., for example, is examined closely regarding its overseas broadcasts, the cost of which is paid for by the Treasury, but not in the case of its Home Services where licence revenue more than covers the costs.

(b) The Public Accounts Committee could not, however, go very deeply into actually investigating the circumstances which lay behind any set of accounts. If that were allowed, there would have been great danger that the Committee might want to meddle in matters of day-to-day management excluded from the process of parliamentary control.

(c) There is no representative of the Treasury on the public corporations. All people who sit on the corporation had to sever their connections with the civil service, by retiring. They were paid from the funds of the corporation.

Ques. *What measures have been adopted in the U.K. for comparing the relative efficiency in industries where units of production exist both in public and private sectors ? Do the costs of production afford an easy and reliable yardstick for such comparison ? What attempts have been made and what is the machinery to guard against increase in prices charged to consumers to cover up inefficiency in management ?*

The only important field in England where both the private and public sectors provided similar service was road transport. But there too, as elsewhere, neither the price charged nor the relative costs were a certain indicator of relative efficiency. Even in gas and electricity, which were organised on regional basis and competed with each other, the relative costs while providing some comparison, did not lead to any definite conclusion. In gas, the figures related to the cost of production, and in electricity to that of distribution. The provision of certain services was socially desirable though it might economically be unsound, *e.g.* the working of the marginal coal mines. Such a service would render cost figures unreliable.

It was impossible to say whether a rise in prices, when found necessary, concealed inefficiency. The cost of coal could only be raised by the permission of the Minister, the transport charges by the permission of a special investigating tribunal, and gas and electricity rates at the individual discretion of the regional boards—whose cost figures were published for each region.

Ques. *What is the best method of finding resources for expansion of a nationalised industry; how far is it proper or desirable to increase prices to find the necessary finance for expansion ?*

In the coal industry in the U.K., the capital was supplied by the Treasury; but in the case of other nationalised industries, by private subscription. The question of finding resources, therefore, was generally a problem of finding spare men and material. How far was it proper or desirable to increase prices to finance additional development, was a question mainly of economics. The pressure upon electricity and gas industries in England at the moment to finance more and more of their capital expansion from surplus revenue, was perhaps an attempt to deal with an incipient inflationary situation.

Ques. *Do the nationalised industries have programmes of personnel development ? What are their contents ? Has the nationalised sector evolved any system of incentives to replace the profit incentive ?*

Most of the nationalised industries had some sort of personnel training programmes. The real incentive to higher productivity and better management came not from profit motive but from a sense of pride of achievement, a feeling of doing something and from the realisation that a rise in the prices of the product might lead to strong public resentment.

Ques. *Do the nationalised industries in the U.K. have a separate department of public relations? Is the problem of public relations dealt with exactly in the same way as it is done in private industrial establishments?*

The electricity and gas industries had a well-developed programme of public relations and vied with each other in persuading the customer to buy their respective products. Other nationalised undertakings had some sort of public relations programme, ranging from replying to individual or institutional enquiries to the display of pride in achievements.

Ques. *How has the central control resulting from nationalisation affected the position of operational manager? What has been the influence of specialists? What methods and devices have been used for achieving effective decentralization?*

The sheer size of the nationalised undertakings, especially of the coal industry, had created many new administrative problems of centralisation and decentralisation. In the coal industry, employing nearly 750,000 men and women, the problem of operational management had become all the more pronounced. The industry, before nationalisation, was organised in very small units and the colliery manager was responsible not only for operations but for a good many decisions regarding development, etc. With the establishment of the National Coal Board, he had still to get fully used to receiving instructions from above. Similarly, the workers too had to get accustomed to a type of top management with whom they had no direct contact. Surprisingly enough, the Fleck Committee came to the conclusion that administration under the National Coal Board was not sufficiently centralised. The whole question of centralisation vs. decentralisation was a very complicated issue and the ultimate solution depended upon a number of factors which entered into a specific situation, such as the nature and size of operations, the type of labour employed, the organisational set-up, leadership qualities possessed by managerial personnel, etc.

Ques. *What is the most appropriate form of internal top-organisation for managing public enterprises—a single administrator or a collegiate top structure? If collegiate top structure is chosen does not the authority tend in practice to gravitate to one man's hand? Alternatively, if the authority is vested in one man, has not he to take into account the views of colleagues and other interested parties?*

the case. Even with single administrator, there could be an effective body of consultants. Under collegiate top-structure, the chairman might be a man of personality and influence, strong enough to dictate a particular line or lines of action.

Ques. (a) Is the Civil Service Commission in the United Kingdom associated with recruitments to the following categories of appointments in nationalised industrial concerns :

- (i) *supervisory and managerial posts; and*
- (ii) *technical posts including specialised posts; lower grade posts—technical and non-technical.*

(b) If so, an elucidation would be necessary with specific reference to—

- (i) *industries managed directly by Government departments; and*
- (ii) *industries managed by statutory corporations wholly or partly owned by Government.*

The Civil Service Commission in the U.K. had generally nothing to do whatsoever with recruitment to the nationalised industries. That was left to the boards of industries themselves. These boards, however, had evolved their own systems of competitive selection through public advertisement in the papers, etc. There was at the moment a great shortage of technical and scientific personnel.

Ques. Do the nationalised industries in the U.K. run any schemes for training in management? How are the top executives recruited?

The nationalised industries had their own training programmes. They also made use of the facilities available at the Administrative Staff College at Henley-on-Thames and for the study of civic courses at various institutions. The latter instruction aimed at widening the knowledge and outlook of the personnel and covered all levels of staff.

Ques. What is the role of the consumers' councils in public enterprises? How far have they been able to influence policies and programmes of nationalised industries?

The consumers' councils in the U.K. served as a safety valve—as an efficient medium through which consumers' complaints could be taken to the boards of management for

redress. It was difficult to assess the achievements of the consumers' councils at the national level, but they had proved very useful in protecting the interests of the consumers in the regions. For instance, the regional board running the West Midlands Electricity Scheme generally consulted the consumers' council as regards the allocation of capital to programmes of expansion. It also gave serious thought to complaints against the introduction of higher rates.

The consumers' councils were appointed by the Minister usually from the panel of names submitted by organisations which he had to consult under the relevant statutory regulations. In the case of regions, it was laid down that not less than half and not more than $\frac{3}{5}$ of the members must be from local authorities.

Ques. *What is the nature and form of workers' participation in nationalised industries? How far has it helped towards the realisation of the socialistic pattern of society in the U.K.?*

The statutory enactments concerning all the major nationalised industries make it obligatory upon the managements to establish joint consultative councils. However, the success of the councils depended ultimately on the psychological relationship between the management and the workers. Some administrators on the management side were irritated and suspicious: on the workers' side there was both apathy and ignorance. The whole problem of joint consultation is very complex and not well understood.

Trade union meetings were generally attended only by 5 per cent. or less of the members. The participation by workers in management matters called for a far higher standard of education than the one prevailing.

Ques. *Has the employer-employee relationship in nationalised industries improved during the last eight years? Were there any major strikes? If so, what was the attitude of the trade union movement inside the nationalised industries?*

On the whole there were exceedingly few troubles in those industries where labour relations were already good, i.e. gas and electricity, but not in transport and coal. In the latter case, the psychological attitude of the miner had a long history behind it and just a change in ownership had not altered in any way. Strikes in the coal fields had been mostly localised and had not the support of the National Union of Miners. There was one major strike in transport—of the railway drivers and foremen on the question of wage itself. The unrest

in the coal industry was less under public ownership than it might had been under private ownership; it was certainly less than what it was after the first World War. The stability of employer-employee relations ultimately depended largely on the element of personal touch in personnel relationship. Holding of meetings in the different parts of the regions afforded an opportunity to bring home to the workers that there were other human beings trying to do as equally difficult jobs as they were accomplishing themselves. Some of the public corporations were devoting quite a lot of time and money on research into the problem.

Ques. How do the salaries in nationalised industries compare with those of similar persons in the Civil Service and in the private sector ?

The chairman of the corporations and other nationalised undertakings receive more than the permanent heads of departments but much less than the topmost men in the private sector of industry. The Fleck Committee had reported that the Coal Board was not paying enough to attract the services of topmen of the right calibre. In general, the civil servants received less than the leaders of nationalised industries.

Ques. What administrative considerations, if any, lay behind the de-nationalisation by the Conservative Government of certain industries nationalised two years earlier by the Labour Government ?

The decision to de-nationalise or nationalise was, in the last analysis, not based on any administrative considerations. It was mainly a political decision.

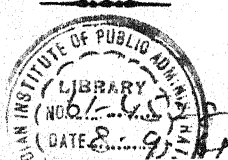
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